

Message Text

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ORIGIN EB-11

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CAB - C. COLDREN (DRAFT)

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P 252220Z APR 74

FM SECSTATE WASHDC

TO AMEMBASSY PORT OF SPAIN PRIORITY

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E.O. 11652: N/A

TAGS: ETRN, TD

SUBJECT: CIVAIR: PAN AM AND EASTERN OPERATING PERMITS

REF: PORT-OF-SPAIN 941

1. PAN AMERICAN AND EASTERN AIRLINES BOTH HAVE CONTACTED DEPARTMENT SEEKING ASSISTANCE WITH RESPECT TO SCHEDULE CHANGES FOR WHICH APPROVAL SOUGHT FROM GOTT. AS IN PREVIOUS EXCHANGE REGARDING INCREASED EASTERN FREQUENCIES, DEPARTMENT BELIEVES FORCEFUL REPRESENTATION SHOULD BE MADE TO GOTT REGARDING WHAT WE CONSIDER A RESTRICTIVE PRACTICE PROHIBITED BY AIR TRANSPORT AGREEMENT CURRENTLY IN FORCE.

2. FYI: CURRENT GOTT FAILURE TO ACT ON THESE REQUESTS APPEARS BE DENIAL OF RIGHTS SECURED UNDER AGREEMENT. THIS COULD RESULT IN PRESSURE HERE TO TAKE RETALIATORY ACTION AGAINST BWIA UNDER PART 213 OF CAB'S REGULATIONS (14 CFR). END FYI.

3. ACCORDINGLY, UNLESS EMBASSY CAN SUGGEST OTHER COURSE ACTION LIKELY PERMIT PAN AM AND EASTERN TO MAKE DESIRED CHANGES WITHIN REASONABLE TIME (WEEK TO TEN DAYS), EMBASSY
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SHOULD TRANSMIT NOTE TO FOREIGN OFFICE ALONG FOLLOWING

LINES:

4. "...AND HAS HONOR TO DRAW ATTENTION OF GOTT TO APPLICATION OF PAN AMERICAN WORLD AIRWAYS TO THE ATLA ON

FEBRUARY 22, 1974 TO ADD CERTAIN POINTS TO ITS T&T LICENSE AUTHORIZING AIR SERVICE TO AND FROM TRINIDAD, AND TO THE APPLICATION OF EASTERN AIR LINES, INC., TO THE ATLA ON FOR AUTHORITY TO OPERATE ONE ADDITIONAL FLIGHT PER DAY, STARTING MAY 1." COMMENT: UNDERSTAND (POS 730) THIS APPLICATION APPARENTLY MADE MARCH 28, BUT EMBASSY SHOULD CONFIRM DATE WITH LOCAL EASTERN REP. END COMMENT.

5. "THE EMBASSY UNDERSTANDS THAT ACTION ON THE PAN AM APPLICATION WAS DEFERRED BY THE ATLA IN ITS MEETING APRIL 24, 1974, DESPITE THE FACT THAT PAN AM HAD REQUESTED THE CHANGE TO ALLOW INAUGURATION OF NEW YORK-SANTO DOMINGO-POS-GEORGETOWN SERVICE ON APRIL 27, 1974, AND DESPITE THE FACT THAT THIS APPLICATION WAS SUBMITTED IN TIMELY FASHION.

6. "BY VIRTUE OF AN EXCHANGE OF NOTES DATED SEPTEMBER 27 AND DECEMBER 8, 1962, THE USG AND GOTT CONFIRMED THE CONTINUED APPLICATION OF THE PROVISIONS OF THE US-UK AIR SERVICES AGREEMENT OF 1946, AS AMENDED, TO AIR SERVICES BETWEEN THE US AND T&T, PENDING THE CONCLUSION OF A NEW AGREEMENT DIRECTLY BETWEEN THE TWO GOVERNMENTS. THE ADDITIONAL POINTS WHICH PAN AM IS SEEKING TO ADD TO ITS T&T LICENSE ARE ALL INCLUDED IN THE ROUTES DESCRIBED IN SECTION III (B) OF THE ANNEX TO THAT AGREEMENT, SPECIFICALLY IN ROUTES 10 AND 12, FOR WHICH PAN AM HAS BEEN OFFICIALLY DESIGNATED BY THE USG. ARTICLE 2 (1) OF THE AFOREMENTIONED AGREEMENT REQUIRES THAT OPERATING PERMISSION BE GRANTED TO THE DESIGNATED AIRLINES (INNERQUOTE) WITHOUT UNDUE DELAY (END INNERQUOTE). "IN VIEW OF THE RIGHTS AND OBLIGATIONS EMBODIED IN THIS AGREEMENT, AS OUTLINED ABOVE, USG IS UNABLE TO UNDERSTAND THE BASIS FOR THE FAILURE BY ATLA TO ACT FAVORABLY ON THE PAN AM APPLICATION IN A TIMELY MANNER. USG BELIEVES THAT SUCH FAILURE MAY BE INCONSISTENT WITH THE TERMS OF THE LIMITED OFFICIAL USE

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AGREEMENT AND THAT IT IS, IN ANY EVENT, CONTRARY TO THE SPIRIT OF THE AGREEMENT.

7. "WITH RESPECT TO THE APPLICATION BY EASTERN AIRLINES TO INCREASE ITS FREQUENCY OF SERVICE TO T&T OVER ROUTES FOR WHICH THE AIRLINE ALREADY HOLDS A LICENSE, FAILURE TO APPROVE SUCH APPLICATION IN TIMELY FASHION WOULD, IN THE VIEW USG, BE A VIOLATION OF THE AGREE-

MENT IN THAT IT WOULD CONSTITUTE DE FACTO RESTRICTION BY ONE PARTY OF OPERATIONS BY AN AIRLINE OF THE OTHER PARTY. INHERENT IN THE AGREEMENT BETWEEN THE US AND THE UK, WHICH THE GOTT HAS ACCEPTED, IS THE RIGHT OF A DESIGNATED CARRIER SUCH AS EASTERN TO DECIDE THE NUMBER OF FLIGHTS IT

WILL OPERATE ON AGREED ROUTES, SUBJECT TO EX POST FACTO REVIEW TO ASSURE CONFORMITY TO THE GENERAL PRINCIPLES AND AIMS OUTLINED IN THAT AGREEMENT. SINCE IT WOULD VIOLATE THESE (INNERQUOTE) BERMUDA PRINCIPLES (END INNERQUOTE), SUCH A RESTRICTION COULD HAVE SERIOUS CONSEQUENCES.

8. IN VIEW OF ABOVE, USG HOPES GOTT MAY BE ABLE RECONSIDER THESE MATTERS MOST EXPEDITIOUSLY AND TO APPROVE ADDITIONAL OPERATING AUTHORITY SOUGHT BY PAN AM AND EASTERN IN ORDER AVOID ANY DISRUPTION OF NEW SCHEDULES NOW PLANNED."

9. CONTACT WITH EASTERN AIRLINES OFFICIALS HERE, WHO DO NOT YET HAVE FULL DETAILS, SEEMS INDICATE THAT EASTERN'S APPLICATION MAY, CONTRARY TO INFORMATION REPORTED REFTTEL, HAVE BEEN FAVORABLY ACTED UPON BY ATLA AND PASSED TO PRIME MINISTER FOR FINAL APPROVAL. IF EMBASSY CAN CONFIRM THAT THIS IS THE CASE, PARAGRAPH 7, ABOVE, SHOULD BE DELETED, AS WELL AS THE LATTER PART OF PARAGRAPH 4. PARAGRAPH 8 SHOULD BE MODIFIED TO DELETE REFERENCE TO EASTERN AND MAKE LANGUAGE SINGULAR.

10. ADVISE. KISSINGER

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